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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,910	09/28/2001	Jeffery A. Sylvester	BELL-0120/01126	4236
38952	7590	06/30/2005	EXAMINER	
WOODCOCK WASHBURN LLP ONE LIBERTY PLACE - 46TH FLOOR PHILADELPHIA, PA 19103			ENG, GEORGE	
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/965,910	SYLVESTER ET AL.	
	Examiner	Art Unit	
	George Eng	2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-10, 12-15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-10, 12-15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office action is in response to the amendment filed 2/22/2005.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 2-4, 12-15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushima et al. (JP 08293682A hereinafter Matsushima) in view of Favaro (US PAT. 4,573,573).

Regarding claim 12, Matsushima discloses a protective cover (10, figure 1) for a telephone having a keypad (101, figure 1) and a display, the cover covering on a main body part (103, figure 1) of the telephone, which comprises a keypad portion, i.e., fitting piece of the protective cover (102, figure 1), for covering the keypad of the telephone to protect the telephone at the keypad and a display portion (11b, figure 1) for covering the display of the telephone to protect the telephone at the display, wherein the cover further includes a securing device for securing the cover to the telephone in a repeatedly mountable and disengagable manner, and the securing device including a pair of elastic band (12, figure 1) that extend generally from either lateral side of the keypad portion and along sides of the mounted-to telephone. Matsushima differs from the claimed invention in not specifically teaching the cover including a securing device including a pair of wings and a strap that interconnects distal ends of the wings at a rear face of the mounted-to telephone. However, Favaro discloses a protective case comprising a flexible sheet having a selectively adjustable length to accommodate a variety of different-sized mobile terminals comprising a plurality of fasteners (figure 1) read as a security device including a pair of wings that extend from lateral sides and along sides of the mounted-to a protected device (figure 4) and a strap (figure 3) that interconnects distal ends of the wings at a rear face of the mounted-to the protected device (figure 3 and col. 3 line 5 through col. 4 line 18). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the securing device of Matsushima including the pair of wings and the strap that interconnects distal ends of the wings at a rear face of the mounted-to telephone, as per teaching of Favaro, in order to allow the cover to be adapted to fit a variety of units.

Regarding claims 2-4, Matsushima discloses the telephone further comprising a sound pickup and an ear speaker as shown in figure 1, wherein the cover defines a pickup aperture therein to externally expose the sound pickup and a speaker aperture therein to externally expose the speaker, so that the cover obviously comprises a bottom aperture through which the telephone enters the cover when cover is mounted thereto, the bottom aperture encompassing the pickup aperture (figure 1 and detailed description).

Regarding claims 13-14, Favaro discloses the wings and strap reside adjacent and define a bottom aperture through which an audio device enter the cover when the cover is mounted thereto, wherein the securing device maintains an interference fit with the protected device when the cover is mounted thereto (figures 3-5 and col. 3 lines 5-33).

Regarding claim 15, Favaro disclose the strap being constructed from an elastic material (col. 2 lines 47-53).

Regarding claim 17, Matsushima discloses a protective cover (10, figure 1) for a telephone having a keypad (101, figure 1) and a display, the cover covering on a main body part (103, figure 1) of the telephone, which comprises a keypad portion, i.e., fitting piece of the protective cover (102, figure 1), for covering the keypad of the telephone to protect the telephone at the keypad and a display portion (11b, figure 1) for covering the display of the telephone to protect the telephone at the display, wherein the cover comprising a bottom zone (102, figure 1) including the keypad portion, a back zone (11a, figure 1) and a top zone (11b, figure 1) between the bottom zone and back zone and including the display portion. Matsushima differs from the claimed invention in not specifically teaching the cover formed from a single longitudinally extending piece of a sheet of plastic a bottom zone defining one longitudinal end of the piece and

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a back zone defining the other longitudinal end of the piece. However, Favaro teaches a cover of a portable unit form from a single longitudinal extending piece of a sheet of plastic as shown in figure 1 including bottom zone defining one longitudinal end of the piece, and a back zone defining the other longitudinal end of the piece (col. 3 line 5 through col. 4 line 18). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Matsushima in having the cover formed from a single longitudinally extending piece of a sheet of plastic a bottom zone defining one longitudinal end of the piece and a back zone defining the other longitudinal end of the piece, as per teaching of Favaro, allow the cover to be adapted to fit a variety of units.

Regarding claims 18-20, Favaro discloses the cover comprising two lateral extensions on each lateral side of the piece, one pair of the extensions being on either lateral side of the top zone and the other pair of the extensions being on either lateral side of the back zone, the piece being folded along a generally transverse line between the top zone and back zone such that the respective lateral extensions on each lateral side encounter one another, the encountering extensions being secured to one another and thus running generally along sides of the telephone when the cover is mounted thereto, wherein the fold runs generally along a top face of the audio device when the cover is mounted thereto, and wherein the cover including a securing device for securing a pair of wings that extend generally from lateral side of the keypad portion and along sides of the mounted-to telephone and a strap that interconnects distal ends of the wings at a rear face of the mounted-to telephone (figure 3 and col. 3 line 5 through col. 4 line 18).

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4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushima et al. (JP 08293682A hereinafter Matsushima) in view of Favaro (US PAT. 4,573,573) as applied in claim 1 above, and further in view of Takagi et al. (US PAT. 5,251,329 hereinafter Takagi).

Regarding claim 5, the combination of Matsushima and Favaro differs from the claimed invention in not specifically teaching the telephone further including an external antenna connector and the cover defines an external antenna connector aperture therein to externally expose the external antenna connector. However, it is old and notoriously well known in the art of a radiotelephone comprising an external antenna to send and receive electrical waves, for example see Takagi (figure 2 and col. 4 lines 33-38). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combination of Matsushima and Favaro in having the external antenna connector, as per teaching of Takagi, in order to enhance the telephone by providing an additional means for sending and receiving electrical waves. By combining Inoue and Takagi, the cover obviously defines an aperture therein to externally expose the external antenna connector since Inoue teaches the cover covers only on the main body part of the telephone (figure 1).

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushima et al. (JP 08293682A hereinafter Matsushima) in view of Favaro (US PAT. 4,573,573) and Takagi et al. (US PAT. 5,251,329 hereinafter Takagi) as applied in claim 5 above, and further in view of Flannery (US 2002/0086711).

Regarding claim 6, the combination of Matsushima, Favaro and Takagi differs from the claimed invention in not specifically teaching the telephone further including a holster knob.

However, it is well known in the art of telephone comprising attaching mechanism, i.e., a holster knob, for attaching the telephone to user or a user's clothing, for example see Flannery (figure 2 and [0016]). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combination of Matsushima, Favaro and Takagi in having the holster knob in the telephone, as per teaching of Flannery, in order to make user friendly by attaching the telephone to user or a user's clothing utilizing the holster knob. By combining Flannery with the combination of Matsushima, Favaro and Takagi, the cover obviously defines an aperture therein to externally expose the external expose the holster knob because Inoue teaches the cover covers only on the main body part of the telephone (figure 1).

6. Claims 7-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushima et al. (JP 08293682A hereinafter Matsushima) in view of Favaro (US PAT. 4,573,573) as applied in claim 1 above, and further in view of Inoue (JP 2000115310A).

Regarding claims 7-8, Matsushima teaches the case accommodating a portable phone (abstract) so that one skill in the art would recognizes the telephone further including a power and communication connector. The combination of Matsushima and Favaro differs from the claimed invention in not specifically teaching the cover defining a power and communications connector aperture therein, which the telephone enters the cover when the cover is mounted thereto, to externally expose the power and communication connector. However, Inoue discloses the telephone further comprising a power and communication connector and the cover defining a power and communications connector aperture therein to externally expose the power and communications connector such that the cover further defines a bottom aperture through which

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the telephone enters the cover when the cover is mounted thereto, the bottom aperture encompassing the power and communication connector aperture (abstract and figure 5). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combination of Matsushima and Favaro in having the cover defining a power and communications connector aperture therein, which the telephone enters the cover when the cover is mounted thereto, to externally expose the power and communication connector, as per teaching of Inoue, in order to make user friendly by allowing portable telephone set being charged without unveiling the cover.

Regarding claim 10, Matsushima teaches the case accommodating a portable phone (abstract) so that one skill in the art would recognizes the telephone further including an internal antenna nub. The combination of Matsushima and Favaro differs from the claimed invention in not specifically teaching the cover defining an internal antenna nub aperture therein to externally expose the internal antenna nub. However, Inoue discloses the telephone further comprising an internal antenna nub and the cover defining an internal antenna nub aperture therein to externally expose the internal antenna nub (figure 1) in order to make user friendly. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combination of Matsushima and Favaro in having the cover defining the internal antenna nub aperture therein to externally expose the internal antenna nub, as per teaching of Inoue, in order to make user friendly.

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7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushima et al. (JP 08293682A hereinafter Matsushima) in view of Favaro (US PAT. 4,573,573) as applied in claim 1 above, and further in view of Flannery (US 2002/0086711).

Regarding claim 9, the combination of Matsushima and Favaro differs from the claimed invention in not specifically teaching the telephone further including a holster knob. However, it is well known in the art of telephone comprising attaching mechanism, i.e., a holster knob, for attaching the telephone to user or a user's clothing, for example see Flannery (figure 2 and [0016]). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combination of Matsushima and Favaro in having the holster knob in the telephone, as per teaching of Flannery, in order to make user friendly by attaching the telephone to user or a user's clothing utilizing the holster knob. By combining Flannery with the combination of Matsushima and Favaro, the cover obviously defines a holster knob aperture therein to externally expose the external expose the holster knob because Inoue teaches the cover covers only on the main body part of the telephone (figure 1).

Response to Arguments

8. Applicant's arguments with respect to claims 2-10, 12-15 and 17-20 have been considered but are moot in view of the new ground(s) of rejection.

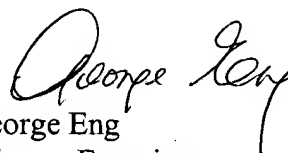
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Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Eng whose telephone number is 703-308-9555. The examiner can normally be reached on Tue-Fri 7:30 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis A. Kuntz can be reached on 703-305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



George Eng
Primary Examiner
Art Unit 2643